

## SUBPART 204-9

### INDIVIDUAL UNIT OPT-INS

**Sec.**

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**Historical Note**

Subpart (§§ 204-9.1 — 204-9.9) filed Jan. 26, 2000 eff. 30 days after filing.

**§ 204-9.1 Applicability.**

A unit that is not a NO<sub>x</sub> budget unit under section 204-1.4 of this Part, vents all of its emissions to a stack, and is operating, may qualify, under this Subpart, to become a NO<sub>x</sub> budget opt-in unit.

**Historical Note**

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**§ 204-9.2 General.**

Except otherwise as provided in this Part, a NO<sub>x</sub> budget opt-in unit shall be treated as a NO<sub>x</sub> budget unit for purposes of applying Subparts 204-1 through 204-8 of this Part.

**Historical Note**

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**§ 204-9.3 NO<sub>x</sub> authorized account representative.**

A unit for which an application for a NO<sub>x</sub> budget opt-in permit is submitted and not denied or withdrawn, or a NO<sub>x</sub> budget opt-in unit, located at the same source as one or more NO<sub>x</sub> budget units, shall have the same NO<sub>x</sub> authorized account representative as such NO<sub>x</sub> budget units.

**Historical Note**

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**§ 204-9.4 Applying for NO<sub>x</sub> budget opt-in permit.**

Applying for NO<sub>x</sub> budget opt-in permit. In order to apply for a NO<sub>x</sub> budget opt-in permit the NO<sub>x</sub> authorized account representative of a unit qualified under section 204-9.1 of this Subpart may submit to the department at any time, except as provided under section 204-9.7(g) of this Subpart:

- (a) a complete NO<sub>x</sub> budget permit application under section 204-3.3 of this Part;
- (b) a monitoring plan submitted in accordance with Subpart 204-8 of this Part; and
- (c) a complete account certificate of representation under section 204-2.4 of this Part, if no NO<sub>x</sub> authorized account representative has been previously designated for the unit.

**Historical Note**

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**§ 204-9.5 Opt-in process.**

The department will issue or deny a NO<sub>x</sub> budget opt-in permit for a unit for which an initial application for a NO<sub>x</sub> budget opt-in permit under section 204-9.4 of this Subpart is submitted, in accordance with section 204-3.1 of this Part and the following:

(a) *Interim review of monitoring plan.* The department will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the application for a NO<sub>x</sub> budget opt-in permit under section 204-9.4 of this Subpart. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO<sub>x</sub> emissions rate and heat input of the unit are monitored and reported in accordance with Subpart 204-8 of this Part. A determination of sufficiency shall not be construed as acceptance or approval of the unit's monitoring plan.

(b) If the department determines that the unit's monitoring plan is sufficient under subdivision (a) of this section and after completion of monitoring system certification under Subpart 204-8 of this Part, the NO<sub>x</sub> emissions rate and the heat input of the unit shall be monitored and reported in accordance with Subpart 204-8 of this Part for one full control period during which monitoring system availability is not less than 90 percent and during which the unit is in full compliance with any applicable State or Federal emissions or emissions-related requirements. Solely for purposes of applying the requirements in the prior sentence, the unit shall be treated as a "NO<sub>x</sub> budget unit" prior to issuance of a NO<sub>x</sub> budget opt-in permit covering the unit.

(c) Based on the information monitored and reported under subdivision (b) of this section, the unit's baseline heat rate shall be calculated as the unit's total heat input (in mmBtu) for the control period and the unit's baseline NO<sub>x</sub> emissions rate shall be calculated as the unit's total NO<sub>x</sub> mass emissions (in lb) for the control period divided by the unit's baseline heat rate.

(d) After calculating the baseline heat input and the baseline NO<sub>x</sub> emissions rate for the unit under subdivision (c) of this section, the department will serve a NO<sub>x</sub> budget opt-in permit on the NO<sub>x</sub> authorized account representative of the unit.

(e) *Issuance of NO<sub>x</sub> budget opt-in permit.* The department will issue the NO<sub>x</sub> budget opt-in permit in accordance with section 204-3.1 of this Part.

(f) *Withdrawal of application for NO<sub>x</sub> budget opt-in permit.* A NO<sub>x</sub> authorized account representative of a unit may withdraw its application for a NO<sub>x</sub> budget opt-in permit under section 204-9.4 of this Subpart at any time prior to the issuance of the final NO<sub>x</sub> budget opt-in permit. Once the application for a NO<sub>x</sub> budget opt-in permit is withdrawn, a NO<sub>x</sub> authorized account representative wanting to reapply must submit a new application for a NO<sub>x</sub> budget permit under section 204-9.4 of this Subpart.

(g) *Effective date.* The effective date of the NO<sub>x</sub> budget opt-in permit shall be May 1st of the first control period starting after the issuance of the initial NO<sub>x</sub> budget opt-in permit by the department. The unit shall be a NO<sub>x</sub> budget opt-in unit and a NO<sub>x</sub> budget unit as of the effective date of the initial NO<sub>x</sub> budget opt-in permit.

**Historical Note**

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**§ 204-9.6 NO<sub>x</sub> budget opt-in permit contents.**

Each NO<sub>x</sub> budget opt-in permit will contain all elements required for a complete NO<sub>x</sub> budget opt-in permit application under section 204-3.3 of this Part as approved or adjusted by the department.

**Historical Note**

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**§ 204-9.7 Withdrawal from NO<sub>x</sub> Budget Trading Program.**

(a) *Requesting withdrawal.* To withdraw from the NO<sub>x</sub> Budget Trading Program, the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> budget opt-in unit shall submit to the department a request to withdraw effective as of a specified date prior to May 1st or after September

30th. The submission shall be made no later than 90 days prior to the requested effective date of withdrawal.

(b) *Conditions for withdrawal.* Before a NO<sub>x</sub> budget opt-in unit covered by a request under subdivision (a) of this section may withdraw from the NO<sub>x</sub> Budget Trading Program and the NO<sub>x</sub> budget opt-in permit may be terminated under subdivision (e) of this section, the following conditions must be met:

(1) for the control period immediately before the withdrawal is to be effective, the NO<sub>x</sub> authorized account representative must submit or must have submitted to the department an annual compliance certification report in accordance with section 204-4.1 of this Part;

(2) if the NO<sub>x</sub> budget opt-in unit has excess emissions for the control period immediately before the withdrawal is to be effective, the administrator will deduct or has deducted from the NO<sub>x</sub> budget opt-in unit's compliance account, or the overdraft account of the NO<sub>x</sub> budget source where the NO<sub>x</sub> budget opt-in unit is located, the full amount required under section 204-6.5(d) of this Subpart for the control period; and

(3) after the requirements for withdrawal under paragraphs (1) and (2) of this subdivision are met, the administrator will deduct from the NO<sub>x</sub> budget opt-in unit's compliance account, or the overdraft account of the NO<sub>x</sub> budget source where the NO<sub>x</sub> budget opt-in unit is located, NO<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as any NO<sub>x</sub> allowances allocated to that source under section 204-9.9 of this Subpart for any control period for which the withdrawal is to be effective. The administrator will close the NO<sub>x</sub> budget opt-in unit's compliance account and will establish, and transfer any remaining NO<sub>x</sub> allowances to, a new general account for the owners and operators of the NO<sub>x</sub> budget opt-in unit. The NO<sub>x</sub> authorized account representative for the NO<sub>x</sub> budget opt-in unit shall become the NO<sub>x</sub> authorized account representative for the general account.

(c) A NO<sub>x</sub> budget opt-in unit that withdraws from the NO<sub>x</sub> Budget Trading Program shall comply with all requirements under the NO<sub>x</sub> Budget Trading Program concerning all years for which such NO<sub>x</sub> budget opt-in unit was a NO<sub>x</sub> budget opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.

(d) *Notification.* (1) After the requirements for withdrawal under subdivisions (a) and (b) of this section are met (including deduction of the full amount of NO<sub>x</sub> allowances required), the department will issue a notification to the NO<sub>x</sub> authorized account representative of the NO<sub>x</sub> budget opt-in unit of the acceptance of the withdrawal of the NO<sub>x</sub> budget opt-in unit as of a specified effective date that is after such requirements have been met and that is prior to May 1st or after September 30th.

(2) If the requirements for withdrawal under subdivisions (a) and (b) of this section are not met, the department will issue a notification to the NO<sub>x</sub> authorized account representative of the NO<sub>x</sub> budget opt-in unit that the NO<sub>x</sub> budget opt-in unit's request to withdraw is denied. If the NO<sub>x</sub> budget opt-in unit's request to withdraw is denied, the NO<sub>x</sub> budget opt-in unit shall remain subject to the requirements for a NO<sub>x</sub> budget opt-in unit.

(e) *Permit revision.* After the department issues a notification under paragraph (d)(1) of this section that the requirements for withdrawal have been met, the department will revise the permit issued pursuant to Part 201 of this Title covering the NO<sub>x</sub> budget opt-in unit to terminate the NO<sub>x</sub> budget opt-in permit as of the effective date specified under paragraph (d)(1) of this section. A NO<sub>x</sub> budget opt-in unit shall continue to be a NO<sub>x</sub> budget opt-in unit until the effective date of the termination.

(f) *Reapplication upon failure to meet conditions of withdrawal.* If the department denies the NO<sub>x</sub> budget opt-in unit's request to withdraw, the NO<sub>x</sub> authorized account representative may submit another request to withdraw in accordance with subdivisions (a) and (b) of this section.

(g) *Ability to return to the NO<sub>x</sub> Budget Trading Program.* Once a NO<sub>x</sub> budget opt-in unit withdraws from the NO<sub>x</sub> Budget Trading Program and its NO<sub>x</sub> budget opt-in permit is terminated under this section, the NO<sub>x</sub> authority account representative may not submit another application for a NO<sub>x</sub> budget opt-in permit under section 204-9.4 of this Subpart for the unit prior

to the date that is four years after the date on which the terminated NO<sub>x</sub> budget opt-in permit became effective.

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**§ 204-9.8 Change in regulatory status.**

(a) *Notification.* When a NO<sub>x</sub> budget opt-in unit becomes a NO<sub>x</sub> budget unit under section 204-1.4 of this Part, the NO<sub>x</sub> authorized account representative shall notify in writing the department and the administrator of such change in the NO<sub>x</sub> budget opt-in unit's regulatory status, within 30 days of such change.

(b) *Department's and administrator's action.*

(1) (i) When the NO<sub>x</sub> budget opt-in unit becomes a NO<sub>x</sub> budget unit under section 204-1.4 of this Part, the department will revise the NO<sub>x</sub> budget opt-in unit's NO<sub>x</sub> budget opt-in permit to meet the requirements of a NO<sub>x</sub> budget permit under section 204-3.4 of this Part as of an effective date that is the date on which such NO<sub>x</sub> budget opt-in unit becomes a NO<sub>x</sub> budget unit under section 204-1.4 of this Part.

(ii) (a) The administrator will deduct from the compliance account for the NO<sub>x</sub> budget unit under subparagraph (i) of this paragraph, or the overdraft account of the NO<sub>x</sub> budget source where the unit is located, NO<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as:

(1) any NO<sub>x</sub> allowances allocated to the NO<sub>x</sub> budget unit (as a NO<sub>x</sub> budget opt-in unit) under section 204-9.9 of this Subpart for any control period after the last control period during which the unit's NO<sub>x</sub> budget opt-in permit was effective; and

(2) if the effective date of the NO<sub>x</sub> budget permit revision under subparagraph (i) of this paragraph is during a control period, the NO<sub>x</sub> allowances allocated to the NO<sub>x</sub> budget unit (as a NO<sub>x</sub> budget opt-in unit) under section 204-9.9 of this Subpart for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under subparagraph (i) of this paragraph, divided by the total number of days in the control period.

(b) The NO<sub>x</sub> authorized account representative shall ensure that the compliance account of the NO<sub>x</sub> budget unit under subparagraph (i) of this paragraph, or the overdraft account of the NO<sub>x</sub> budget source where the unit is located, includes the NO<sub>x</sub> allowances necessary for completion of the deduction under clause (a) of this subparagraph. If the compliance account or overdraft account does not contain sufficient NO<sub>x</sub> allowances, the administrator will deduct the required number of NO<sub>x</sub> allowances, regardless of the control period for which they were allocated, whenever NO<sub>x</sub> allowances are recorded in either account.

(iii) (a) For every control period during which the NO<sub>x</sub> budget permit revised under subparagraph (i) of this paragraph is effective, the NO<sub>x</sub> budget unit under subparagraph (i) of this paragraph will be treated, solely for purposes of NO<sub>x</sub> allowance allocations under section 204-5.3 of this Part, as a unit that commenced operation on the effective date of the NO<sub>x</sub> budget permit revision under subparagraph (i) of this paragraph and will be allocated NO<sub>x</sub> allowances under section 204-5.3 of this Part.

(b) Notwithstanding clause (a) of this subparagraph, if the effective date of the NO<sub>x</sub> budget permit revision under subparagraph (i) of this paragraph is during a control period, the following number of NO<sub>x</sub> allowances will be allocated to the NO<sub>x</sub> budget unit under subparagraph (i) of this paragraph under section 204-5.3 of this Part for the control period: the number of NO<sub>x</sub> allowances otherwise allocated to the NO<sub>x</sub> budget unit under section 204-5.3 of this Part for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under subparagraph (i) of this paragraph, divided by the total number of days in the control period.

(2) (i) If the NO<sub>x</sub> budget opt-in permit of a NO<sub>x</sub> budget opt-in unit is revoked by the department or is allowed to expire by the source, the administrator will deduct from the NO<sub>x</sub> budget opt-in unit's compliance account, or the overdraft account of the NO<sub>x</sub> budget source where the NO<sub>x</sub> budget opt-in unit is located, NO<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as any NO<sub>x</sub> allowances allocated to the NO<sub>x</sub> budget opt-in unit under section 204-9.9 of this Subpart for any control period after the last control period for which the NO<sub>x</sub> budget opt-in permit is effective. The NO<sub>x</sub> authorized account representative shall ensure that the NO<sub>x</sub> budget opt-in unit's compliance account or the overdraft account of the NO<sub>x</sub> budget source where the NO<sub>x</sub> budget opt-in unit is located includes the NO<sub>x</sub> allowances necessary for completion of such deduction. If the compliance account or overdraft account does not contain sufficient NO<sub>x</sub> allowances, the administrator will deduct the required number of NO<sub>x</sub> allowances, regardless of the control period for which they were allocated, whenever NO<sub>x</sub> allowances are recorded in either account.

(ii) After the deduction under subparagraph (i) of this paragraph is completed, the administrator will close the NO<sub>x</sub> budget opt-in unit's compliance account. If any NO<sub>x</sub> allowances remain in the compliance account after completion of such deduction and any deduction under section 204-6.5 of this Part, the administrator will close the NO<sub>x</sub> budget opt-in unit's compliance account and will establish, and transfer any remaining NO<sub>x</sub> allowances to, a new general account for the owners and operators of the NO<sub>x</sub> budget opt-in unit. The NO<sub>x</sub> authorized account representative for the NO<sub>x</sub> budget opt-in unit shall become the NO<sub>x</sub> authorized account representative for the general account.

**Historical Note**

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**§ 204-9.9 NO<sub>x</sub> allowance allocations to opt-in units.**

(a) *NO<sub>x</sub> allowance allocation.* (1) By December 31st immediately before the first control period for which the NO<sub>x</sub> budget opt-in permit is effective, the department will allocate NO<sub>x</sub> allowances to the NO<sub>x</sub> budget opt-in unit and submit to the administrator the allocation for the control period in accordance with subdivision (b) of this section.

(2) By no later than December 31st, after the first control period for which the NO<sub>x</sub> budget opt-in permit is in effect, and December 31st of each year thereafter, the department will allocate NO<sub>x</sub> allowances to the NO<sub>x</sub> budget opt-in unit, and submit to the administrator allocations for the next control period, in accordance with subdivision (b) of this section.

(b) For each control period for which the NO<sub>x</sub> budget opt-in unit has an approved NO<sub>x</sub> budget opt-in permit, the NO<sub>x</sub> budget opt-in unit will be allocated NO<sub>x</sub> allowances in accordance with the following procedures:

(1) the heat input (in mmBtu) used for calculating NO<sub>x</sub> allowance allocations will be the lesser of:

(i) the NO<sub>x</sub> budget opt-in unit's baseline heat input determined pursuant to section 204-9.5(c) of this Subpart; or

(ii) the NO<sub>x</sub> budget opt-in unit's heat input, as determined in accordance with Subpart 204-8 of this Part, for the control period in the year prior to the year of the control period for which the NO<sub>x</sub> allocations are being calculated.

(2) The department will allocate NO<sub>x</sub> allowances to the NO<sub>x</sub> budget opt-in unit in an amount equaling the heat input (in mmBtu) determined under paragraph (1) of this subdivision multiplied by the lesser of:

(i) the NO<sub>x</sub> budget opt-in unit's baseline NO<sub>x</sub> emissions rate (in lb/mmBtu) determined pursuant to section 204-9.5(c) of this Subpart; or

(ii) the most stringent State or Federal NO<sub>x</sub> emissions limitation applicable to the NO<sub>x</sub> budget opt-in unit during the control period.

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